

MEETING  
STATE OF CALIFORNIA  
SECRETARY OF STATE  
VOTING SYSTEMS AND PROCEDURES PANEL

SECRETARY OF STATE  
1500 11TH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

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Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. William Wood, Chairperson

Mr. Lee Kercher

Mr. Daniel Gullahorn

Ms. Caren Daniels-Meade

STAFF

Mr. Bruce McDannold

Mr. Brad Mello

Mr. Steven Stuart

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1 PROCEEDINGS

2 CHAIRPERSON WOOD: Will everybody take their  
3 seats, please, and we will resume the public meeting of the  
4 Secretary of State considering applications related to  
5 Diebold Election Systems and ES&S software.

6 When we left yesterday, we had begun Item Number  
7 2, ES&S, and we had heard from the staff of the Secretary of  
8 State's office. And because of time reasons, we had taken  
9 some expert testimony and I think one public comment out of  
10 order so that we could accommodate individuals who could not  
11 be here today. And I should also mention because of a prior  
12 commitment, Assistant Secretary Brad Clark is not here today  
13 as well.

14 So what I would like to do then is to resume the  
15 consideration of Item Number 2 and ask if the vendor has any  
16 comments that the vendor would like to make, please.

17 MR. DIDDIER: Good morning. Lou Diddier with  
18 Election Systems & Software.

19 We would just like to take the opportunity to  
20 thank the Panel and the staff for all the hard work and  
21 dedication during the testing. And, in addition, thank all  
22 of you who participated in coming in to test the equipment  
23 throughout the day. It was a long day that day and many  
24 people showed up and took the time to come in and test the  
25 equipment.

1           So we would just like to thank the Panel for the  
2   opportunity to present our equipment for certification.

3           CHAIRPERSON WOOD: Thank you. Before you leave,  
4   Mr. Diddier, let me just ask the members of the Panel are  
5   there any questions for the vendor?

6           Thank you.

7           We will now move to and continue what actually is  
8   a continuation of public comment then on Item Number 2.

9           And if we could begin with Steve Chessin, Dan  
10   Ashby, Jon Barrilleaux.

11          All right. Let me run through this again, then.

12          Steve Chessin, Dan Ashby, Jon Barrilleaux, Dave  
13   Berman, Carol Cyr. And following Ms. Cyr, John Deeter, Jane  
14   Eiseberg, and then Carolyn Fowler.

15          Could you come down, please?

16          Everything is in alphabetical order.

17          So, Ms. Cyr, please.

18          MS. CYR: Hello, my name is Carolyn Cyr. I am on  
19   the Strategy and Communications Committee of SoCal  
20   Grassroots. And I'm here to speak to the ES&S AutoMARK  
21   machines.

22          We would be happy with them in Los Angeles and  
23   around the state for actually marking the ballots, but we  
24   would prefer that we not use the ES&S tabulators. And we're  
25   not looking for tabulators in either the precinct level or

1 in the central tabulation center. And that, I think, would  
2 be best for definitely Los Angeles, if not for all of  
3 California.

4 Thank you.

5 CHAIRPERSON WOOD: Thank you.

6 Mr. Deeter, Jane Eiseberg, Carolyn Fowler, Joanne  
7 Fuller, Michelle Gabriel.

8 MS. GABRIEL: Hello, my name is Michelle Gabriel  
9 and I am from Oakland, California, it's in Alameda County.  
10 And I'm sorry that I missed the meeting yesterday and I was  
11 happy to hear that I would have a chance to speak today.

12 I just want to in general say that I am opposed to  
13 electronic voting where any of the software is proprietary  
14 and that I do not feel that it's secure, that my vote is  
15 actually being counted. And any kind of software where we  
16 don't have open access to see it and make sure that there is  
17 nothing being done there that would in any way violate  
18 either my secret ballot or that my vote was actually being  
19 counted, then I feel that that is something that we  
20 shouldn't have in our voting system at all.

21 I'd also like to say that I'm trying to learn  
22 about all the certification processes and I don't understand  
23 about why the state would be putting up things that aren't  
24 NASED certified yet. That it has to be federally certified  
25 first, and then go to state certification, so if there is

1 something that is found wrong in the federal certification  
2 and they change the system and states have already looked at  
3 it, they have to go look at it again. So you're spending a  
4 lot of time and effort on something that then has to go and  
5 be certified again. And I understand at least on the  
6 Diebold system that that happened with the printer, that  
7 they gave a prototype, and the a pre-prototype, and so the  
8 product had to keep going back for certification over again  
9 because they keep changing it significantly, and yet the  
10 state is spending time on it.

11 And my third comment is that I understand that  
12 there is just one consultant looking at these different  
13 systems when the law allows that there would be up to three  
14 consultants and that the state isn't paying for it. So I  
15 would like to recommend that in the future that three  
16 consultants should be used instead of just one so that you  
17 can get as much information as possible, especially since it  
18 has nothing to do with the state having to spend additional  
19 money for these consultants.

20 Thank you so much for taking the time.

21 CHAIRPERSON WOOD: Thank you.

22 Carolyn Fowler.

23 Yes, sir.

24 MR. ASHBY: It seems you skipped through the A's.

25 CHAIRPERSON WOOD: Well, I hope I didn't.

1 MR. ASHBY: Well, you called me earlier.

2 CHAIRPERSON WOOD: Dan Ashby.

3 MR. ASHBY: Yes.

4 CHAIRPERSON WOOD: Sorry, Mr Ashby.

5 MR. ASHBY: Hello, my name is Dan Ashby, I live in  
6 San Pablo, California, and I'm here as a volunteer activist  
7 with Wellstone Voter Rights Task Force and the California  
8 Election Protection Network.

9 And, first, I would like to observe that the  
10 hearings were, of course, in violation of the VSPP's own  
11 rules and the state of California public meeting rules in  
12 that we were not provided with a printed agenda 30 days in  
13 advance of the meeting, as you probably well know. And that  
14 has put the opponents of these systems at a distinct  
15 disadvantage when you compare the expert witness coming from  
16 the other side.

17 Next I would like to say that the Article 4  
18 Section 404 of your own procedures also requires that  
19 federal application be completed before California  
20 examination even be begun. And yet the certification report  
21 to the state was submitted within the last week and stated  
22 that federal certification is still forthcoming and they  
23 expect it by June 30th. I would like to ask why special  
24 dispensation is being given to the vendors to violate the  
25 terms of certification for their convenience, rather than



1 the interests of the people of the state of California.

2           There are other system features that are up for  
3 review and the only one that is new is the AutoMARK ballot  
4 marker device, and all the other components of the system  
5 are previously certified. But they're certified to 1990  
6 standards and as of January 1, 2005, HAVA and California's  
7 own regulations and the NASED advisories require that all  
8 components of a system be completely in compliance with 2002  
9 NASED certification requirements. So that's not the case  
10 here, you have a mix and match, and that's not allowable  
11 under the rules. By that rule, this hearing should not even  
12 be taking place for ES&S's application today because they  
13 don't qualify.

14           Okay. So there are some security problems with  
15 this I would like to address. It goes to the issue of the  
16 ballot definition file --

17           CHAIRPERSON WOOD: Thank you, Mr. Ashby, your two  
18 minutes are up.

19           MR. ASHBY: Okay. I have registered for a second  
20 two minutes on the second point. May I come back?

21           CHAIRPERSON WOOD: Well, this is on the agenda  
22 item, which is Item Number 2.

23           MR. ASHBY: Okay. This is Item 2A, and I'm on the  
24 agenda for 2B.

25           CHAIRPERSON WOOD: This is Agenda Item Number 2,

1 assessing the ES&S system.

2 MR. ASHBY: Which is the executive summary of the  
3 first listed thing.

4 The second listed thing is the technical report, I  
5 can respond to that one for two minutes as well?

6 MS. SMITH: Can he give expert testimony on the  
7 second one?

8 CHAIRPERSON WOOD: Well, no, because we hadn't had  
9 any notice on that, we just don't have the opportunity then  
10 to schedule everybody.

11 MR. ASHBY: I didn't have notice either.

12 CHAIRPERSON WOOD: Well, bear in mind again  
13 everybody is going to have two weeks to provide any comment,  
14 expert or otherwise, if they wish. And we do have people  
15 here who are from out of town and we do need to keep moving  
16 through the schedule.

17 MR. ASHBY: The only comment that will be entered  
18 into the written record for the public will be the spoken  
19 testimony taken today. Any written submissions will not be  
20 available to the public.

21 CHAIRPERSON WOOD: Yes, they will.

22 PANEL MEMBER DANIELS-MEADE: That's our intention,  
23 we're going to post them. That's our intention.

24 CHAIRPERSON WOOD: We mentioned that yesterday.  
25 All the written comment will be available, it will all be

1 posted.

2 MR. ASHBY: That's a new development.

3 CHAIRPERSON WOOD: Yes, it is.

4 MR. ASHBY: Nonetheless, I would like an  
5 opportunity to finish my comments on the technical matters  
6 at hand.

7 CHAIRPERSON WOOD: Well, and I apologize, Mr.  
8 Ashby, but really I would like to get through as many other  
9 people who are here, please.

10 So Ms. Fowler, please. And followed by Ferris  
11 Gluck, Kathleen Harness, and Sherry Healy, please.

12 MS. FOWLER: Good morning. Carolyn Fowler, for  
13 the record, representing the Los Angeles County Central  
14 Committee, and also a member of the California Election  
15 Protection Network.

16 I spoke to you yesterday about transition and my  
17 comments specifically as it relates to the AutoMARK. I have  
18 had an opportunity to review the system, which I think is  
19 important, not only for the public's sake and organizations,  
20 but I think it's important that all of the election  
21 administration that has to select items gets to do the same  
22 thing.

23 The advantages that I saw with the AutoMARK were  
24 immediately the paper ballot certainly, the opportunities  
25 for the language and the disability, it does have the sip-

1 and-puff. So I'm very pleased with that as being perhaps a  
2 transition opportunity. I keep saying transition.

3 What I am concerned about though is as it relates  
4 to the tabulation and the software, and we heard some  
5 comments about not meeting the 2002 standards. So I know  
6 specifically in LA County I think we have a tabulator system  
7 that could possibly even work today with that system going  
8 hand in hand.

9 So for me and the organization that I'm  
10 representing, I'm sharing this information with them, and I  
11 certainly feel comfortable about the AutoMARK as being a  
12 transition item and I'd like you to consider that for all  
13 the counties. And I mentioned yesterday about quality in  
14 terms of looking at the state as a whole, so I hope you  
15 would take that into consideration. But I do question the  
16 tabulation.

17 Thank you.

18 CHAIRPERSON WOOD: Ferris Gluck, Kathleen Harness.  
19 Sherry Healy.

20 MS. GLUCK: Good morning, my name is Ferris Gluck,  
21 and I'm affiliated with Democracy for America, Los Angeles.

22 And I would like to speak on the ES&S AutoMARK  
23 voter assist terminal, but also as part of an election  
24 management system. Forgive me if I mix up the terminology.

25 The ES&S AutoMARK voter assist terminal claims

1 compliance with the California Election Code, yet several  
2 problems are expressed by the June 7th report from the  
3 Election Systems Division.

4           The AutoMARK is capable of reading votes  
5 incorrectly, unrecognizable characters and language  
6 translations are a problem and require the presence of an  
7 AIMS programmer, AIMS is an acronym, AIMS, to manually  
8 change all affected fields in the ballot. You say ES&S is  
9 expecting to eliminate this problem in a later version.

10           Also this machine does contain proprietary code.  
11 But if you're saying that there is going to be a later  
12 version, how will you budget for machines that you're  
13 certifying right now, much less upgrade? How do we get to  
14 know what a later version will contain? I read about  
15 instances where you approved one machine and then something  
16 else turns up later.

17           If you are willing to certify such a faulty  
18 machine as this AutoMARK voter assist terminal, how can we  
19 trust the certification at all for all of the machines.  
20 This machine does not sound like it's finished being  
21 developed. Why is there a rush to buy such faulty equipment  
22 now? I say to be prudent and explore further options beyond  
23 the two that I know of so far, at least for Los Angeles. If  
24 an election system doesn't guarantee the vote can be  
25 counted, I see no justification for purchasing some

1 equipment to satisfy the regulations for the disabled --

2 CHAIRPERSON WOOD: Ms. Gluck, thank you, your two  
3 minutes are up.

4 MS. GLUCK: Okay. I would just like to say that  
5 my mother is disabled and I have assisted her in voting for  
6 20 years, and she doesn't mind, and I turn my head while her  
7 hand is wherever it needs to be to mark something.

8 Thank you.

9 CHAIRPERSON WOOD: Kathleen Harness, Sherry Healy.

10 MR. BARRILLEAUX: I didn't quite understand the  
11 process, are you going to go through the names again?

12 CHAIRPERSON WOOD: No. We'll call them, as  
13 everybody is here, we'll see if we can't get through  
14 everybody.

15 MR. BARRILLEAUX: Okay. Because I was at the  
16 beginning and I didn't understand the process.

17 CHAIRPERSON WOOD: What is your name, sir, I'm  
18 sorry?

19 MR. BARRILLEAUX: Jon Barrilleaux.

20 CHAIRPERSON WOOD: Probably because I  
21 mispronounced your name, and I apologize.

22 MS. HEALY: Hi, I'm Sherry Healy from DFA, and  
23 we're a member of the California Election Protection Network  
24 coming together on this sole issue of election integrity.

25 And I personally have been looking into the

1 integrity of our elections for two and a half years and the  
2 more I learn, the more I realize it's like putting an  
3 octopus together, every time we find one vulnerability,  
4 another pops up.

5           Listening to experts over the last two years, I  
6 have been hearing a lot of debate, what would it take to  
7 detect fraud at the end, and it seems like they are stating  
8 between three and four percent.

9           And so what we've come up with is this idea of a  
10 gold star audit, and that's just a way to think of the five  
11 points that it would take to have a real good clean way to  
12 detect if there has been any malicious tampering to our  
13 vote. And that's what all these systems are vulnerable to.  
14 If we had this as a condition of certification, that is one  
15 thing we could do right away to restore the confidence in  
16 these two companies or whatever way we go. And what that  
17 would be would be basically the premise is auditability  
18 equals legitimacy. And we don't want one more election in  
19 California without our integrity, I think you can all agree  
20 on that.

21           And basically what a gold star audit would be  
22 would be to have mandatory audits on all elections, which we  
23 already have. Then we would have a genuinely random  
24 sampling of a minimum of five percent of all precincts, and  
25 within that sampling above, we would have 100 percent of the

1 ballots counted, paper ballots or paper audits, whatever  
2 paper we can get. This is all contingent on having some  
3 piece of paper which we're going to have soon. And how it  
4 is hand counted and who and where and when, non partisan  
5 oversight in a public forum.

6 The five percent figure as I said is -- I have  
7 been hearing three to four percent between the experts, and  
8 we're erring on the side of sufficiency saying five percent.  
9 I know Progressive Democrats of America are asking for ten  
10 percent.

11 CHAIRPERSON WOOD: Thank you, ma'am, and your two  
12 minutes are up.

13 MS. HEALY: Okay.

14 CHAIRPERSON WOOD: And, sir, would you come  
15 forward. And then, Joann Fuller, I have a note that your  
16 name was called, you were out of the room. Thank you,  
17 ma'am, and you would be next please.

18 MR. BARRILLEAUX: My name is Jon Barrilleaux, I'm  
19 a concerned citizen. I live in Oakland, California.

20 I'm in systems and software, and I have 25 years  
21 experience in aerospace, commercial and government research  
22 and development. Since I vote in Alameda County, and since  
23 Alameda County uses electronic voting systems, what gets  
24 decided here today directly impacts me and my vote.

25 I vote in national and local elections. And I



1 speak to you today because you, the Panel members, as well  
2 as my county registrar are asking me to trust your decision  
3 that these systems will count my vote fairly, accurately and  
4 effectively. And as we know, trust must be earned.

5 I only recently begun my investigations into  
6 electronic voting systems. It's quite difficult for a  
7 citizen such as myself to conduct an effective assessment of  
8 these systems, and review of the systems is severely limited  
9 since only one consultant was used instead of three allowed  
10 by the election code.

11 Consultant's report on the systems, which is  
12 supposed to be public record, it's been suspiciously  
13 redacted, at least for the Diebold part. Much of the  
14 information that was going to be addressed by this meeting  
15 was posted late just a few days ago. And this mission  
16 critical system is proprietary and closed, the design codes  
17 are not open for review.

18 In spite of all these challenges, what I found so  
19 far, thanks in large part to the work of others, is rather  
20 disturbing. Simply put, these systems do not appear to be  
21 suitable for mission critical applications, which is  
22 counting our votes.

23 The staff recommends that the systems are good  
24 enough with various qualifications, caveats, restrictions.  
25 I'm aware that the county registrars are pressed for time to

1 get certified voting systems. I'm also aware that a large  
2 investment has been made by my county in particular in  
3 electronic voting systems.

4 CHAIRPERSON WOOD: Thank you, sir, your two  
5 minutes are up.

6 MR. BARRILLEAUX: However, in my experience, these  
7 can be some of the worst reasons for rushing into these  
8 decisions. Let's not throw good money after bad. I ask you  
9 that we need to have open software for these systems.

10 CHAIRPERSON WOOD: Thank you.

11 Ms. Fuller. And following Ms. Fuller, Kathleen  
12 Harness, Luana Horstkotte, and Karen Inderland.

13 MS. FULLER: I'm Joann Fuller, I'm the Associate  
14 Director of California Common Cause.

15 Common Cause is a nonprofit, nonpartisan citizen's  
16 lobby that works to strengthen governmental accountability  
17 and public participation. We were the lead plaintiffs in  
18 the case that disqualified the punch card voting machines,  
19 and we're looking forward to this opportunity to get  
20 machines that count our votes in our state in an acceptable  
21 way leading to more accurate voting. And our 40,000 members  
22 are committed to supporting voting technology that ensures  
23 voter accessibility, as well as voting security.

24 I am summarizing our report, and the report is a  
25 result of a June 13th testing of the AutoMARK voting assist

1 terminal. We did that with a number of persons that are  
2 listed in our testimony, and it was an interesting mix of  
3 disability groups, people who have concerns over minority  
4 language concerns, and also people interested in voter  
5 accuracy and safety. And we write to express our support of  
6 this voting machine.

7 I will just summarize to say that we had -- we  
8 liked the machine in various ways that were really in the  
9 staff report, and we would echo the staff report. We also  
10 had concerns about the machine that were echoed in the staff  
11 report, particularly around how hard it was to get the  
12 ballots out, around the ability to handle more than six  
13 languages plus English, and also how the ballots will be  
14 tabulated. We echo the concern by Eugene Lee yesterday  
15 around the concerns around the Ink-A-Vote ballot.

16 I did want to react to one thing that was in the  
17 staff report yesterday, and that was that this machine was  
18 being viewed as something to meet the concerns of the  
19 disability community. And we also wanted to look up the  
20 concerns of the language minority communities and think that  
21 we should look at that at a precinct-by-precinct level to  
22 see how many of these machines would be needed to meet that  
23 concern.

24 CHAIRPERSON WOOD: Thank you, Ms. Fuller, your two  
25 minutes are up.

1           I'm sorry, you have to state your name. So many  
2 people filled out cards yesterday and I want to keep track  
3 of them. Your name was?

4           MS. HORSTKOTTE: Luana Horstkotte.

5           CHAIRPERSON WOOD: Thank you.

6           MS. HORSTKOTTE: I guess I'm here in two  
7 capacities. First of all on behalf of Protection and  
8 Advocacy, which serves under both a federal and state  
9 mandate to advance the civil rights of people with  
10 disabilities, and also personally as a citizen and also as a  
11 poll worker in Contra Costa County. And I see Steve Weir  
12 right over there.

13           So let me give a personal comment first. If I saw  
14 the same energy that was in this room yesterday with people  
15 participating as poll workers, I would feel a lot better  
16 about the screams about democracy that continue on in the  
17 debate that is going on the second day today. I take a day  
18 off work and I go work as a poll worker. So I've had the  
19 opportunity to deal with many of the concerns that people  
20 talk about. So that's very much a personal comment and it  
21 has nothing to do with my professional capacity.

22           I had the opportunity to inspect the AutoMARK  
23 system when it was here on June the 1st. I've already  
24 provided written comments to the Panel that you've probably  
25 had the opportunity to review. And most of the concerns

1 that we had were addressed in the staff report. We do have  
2 concerns for people who have grip and mobility and strength  
3 issues in being able to manipulate that ballot, especially  
4 bringing it out of the system. It's a fairly strong grip  
5 that's required and that's problematic for many people,  
6 whether it's part of the aging population or part of the  
7 disability population.

8           There is another concern that I believe I raised  
9 in the letter that deals with the amount of touch force that  
10 is required to operate the touchscreen system. It's  
11 actually more force than I would have expected based on  
12 experience with ATM-style machines. I don't know whether  
13 that can be adjusted, but it is of some concern to me. And  
14 even if it's enhanced by some type of a pointer or a pencil  
15 or something or other, there is still a sufficient amount of  
16 force that's required to encode that vote choice.

17           The other major area of concern that I had was  
18 with regard to the curbside voting issue. You're all aware,  
19 I'm very aware, and I would hope the people that go to these  
20 meetings are aware that there is a rapidly approaching  
21 deadline of which I don't know if there is any provision for  
22 any extension of time to bring at least one accessible  
23 voting system into every precinct in every state in every  
24 part of the United States by January the 1st, 2006. And  
25 that's the reality and that's the law.

1           CHAIRPERSON WOOD: Thank you, ma'am, your time's  
2 up.

3           MS. HORSTKOTTE: The concern would be with the  
4 curbside voting issues also that were raised in the letter.

5           Thank you.

6           CHAIRPERSON WOOD: Thank you.

7           Karen Inderland, Michael Jay, Mimi Kennedy.

8           MS. INDERLAND: Hi, my name is Karen Inderland and  
9 I'm with Citizens Act in Los Angeles, and also a member of  
10 the California Election Protection Network.

11           And we did have an opportunity to see the AutoMARK  
12 machine last week, and that was really a nice thing to be  
13 able to arrange on such short notice. And what I like about  
14 the AutoMARK is that it does not tabulate, it doesn't have  
15 any electronics, other than to mark a ballot. And I think  
16 that's a nice direction to go in because we do have the  
17 disabled, we do have language challenge, we have all the  
18 things we have to meet with the machine, and yet we're  
19 thrust into the electronic age where it's not safe.

20           The AutoMARK is a nice answer to that and it marks  
21 the paper ballot. When you pull out the paper ballot, I  
22 think with our microtally system in Los Angeles we can use  
23 our own tabulation. But I think it could be a nice answer  
24 to have those votes counted at the precincts as opposed to  
25 the central. And people are willing to wait. So for me, I

1 found the AutoMARK to be a nice answer and kind of drive us  
2 away from this wireless. We don't want anything having to  
3 do with internet in our vote, and this is the way to do it.

4 As far as the curbside, I did see that when the  
5 machine is unplugged, it continues to run, and my  
6 understanding is that the battery works for eight hours.  
7 And so as long as you can have it on some kind of wheels, I  
8 think that it's doable.

9 That's what I wanted to say. Thank you very much.

10 CHAIRPERSON WOOD: Thank you.

11 Michael Jay, Mimi Kennedy.

12 MR. JAY: Good morning, Michael Jay, SoCal  
13 Grassroots, Los Angeles County.

14 And I would like to agree that we do need a  
15 system, perhaps the AutoMARK to help those that need to mark  
16 their ballots as indicated by HAVA.

17 We're very aware, if I may speak for the others  
18 that have spoken to you, that there is this deadline  
19 looming, HAVA. It doesn't mean that we have to make the  
20 wrong choice, though.

21 I need to drive back to Los Angeles for something  
22 tomorrow, it doesn't mean that I have to get into some car  
23 this is made by someone that I don't know that is perhaps  
24 jet powered or uses technology. No, I wouldn't risk my life  
25 doing that.

1           We are fooling with history here. You're changing  
2 the way this nation is voting, unlike other nations. The  
3 physical ballot above all to a system that is not  
4 administered by the state and it doesn't seem to have been  
5 researched or checked into by the state as much as it could  
6 have been to assist and be run by a corporation. That is  
7 the qualitative difference here, and I ask you to think  
8 about that.

9           That's why we are for the AutoMARK system, but do  
10 not want central tabulation, not proprietary software. The  
11 simple solution to that is open source code. It's beyond me  
12 why we haven't enlisted the University of California to help  
13 with open source code. Likewise, in any election I would  
14 also like to advocate open source code so that any system  
15 that we do have is something that the voters can have  
16 confidence in.

17           Thank you.

18           MS. KENNEDY: Hi. Mimi Kennedy, Progressive  
19 Democrats of America, but I'm from a Republican family,  
20 upstate New York.

21           I just wanted to address the ES&S AutoMARK machine  
22 versus system at the moment, and I hope I get to comment on  
23 Number 4 on some of the other things like poll working,  
24 which I look forward to doing, and I never have done it.  
25 And thank you for reminding me that I must, and I must



1 confess I was curious if you have done it but I'm not going  
2 to do that in public. But thank you for that thought for  
3 all of us.

4 I do like the AutoMARK system. I did have a  
5 chance to see it in the registrar's office in LA. I like  
6 the machine, not system. This is education versus  
7 ignorance. When many of us say system, we don't really want  
8 the whole system, I want the AutoMARK machine. I would like  
9 that in LA.

10 I invite us to imagine something that could go  
11 wrong. When someone talked about the translation, we've all  
12 read those funny T-shirts that are bad translations of  
13 English, and you need someone there to tell someone who  
14 speaks Tagalog what that really is in Tagalog. I just begin  
15 to think, well, you could scam the ballot and possibly even  
16 votes where it looked like they were switched in the  
17 touchscreen where you would press one candidate and it would  
18 say thank you for voting for another and then wonder, oh, my  
19 goodness, don't tell me that. For instance you could say  
20 this candidate for mayor and when the scanner comes up in  
21 say Tagalog, it would have the other candidate for mayor in  
22 that ballot position so that when you took out the marked  
23 ballot, supposedly you can see what you marked, but then in  
24 the tabulator it only checked the mark where it's supposed  
25 to be and the positions were switched.

1           Forgive my skeptical mind, but that's the kind of  
2    thing you have to look at. So I think I love the AutoMARK.  
3    I don't want to buy any tabulators right now because it's  
4    propriety software. I am for the Open Voting Consortium.  
5    The UC system can develop cheap, almost free software, and  
6    then any vendor can use it to put in his or her machine. I  
7    would like the paper at the precinct counted at the precinct  
8    in transition and our microtally system counting it  
9    centrally in this transition mode. AutoMARK, paper counted  
10   at the precinct, paper tabulated centrally in LA.

11           Thanks.

12           CHAIRPERSON WOOD: Mark Keenberg, Barbara Levy,  
13   Ted Newman.

14           MR. KEENBERG: Hello, my name is Mark Keenberg,  
15   I'm from Ventura County Progressives and California Election  
16   Protection.

17           The first thing is we want it on record that we do  
18   not support the central tabulator and the precinct tabulator  
19   from ES&S because they are proprietary code, and we feel  
20   that proprietary code is in violation of the California  
21   Constitution, Article 2.5, which guarantees the right to  
22   every citizen to have their vote counted.

23           Aside from that, we had the opportunity to view  
24   the AutoMARK system last week and we compared it to the PBR  
25   unit which was presented as maybe an answer to helping the

1 HAVA upgrade with the Ink-A-Vote system. We feel that the  
2 AutoMARK system is a much better alternative to the PBR  
3 unit.

4 I don't know if Conny has seen the AutoMARK yet,  
5 but we applaud Conny for wanting to keep LA County on the  
6 paper ballot system. And we actually support her at times,  
7 it may not seem like that, but we want her to know that we  
8 do support her and we would really, really like to work with  
9 her on the AutoMARK.

10 I don't want Conny to think we're blindsiding her  
11 on the AutoMARK ballot and our support for it. I don't know  
12 if Conny has seen it yet and if she hasn't, we would really,  
13 really like Conny to look at it. I think she will really  
14 like it and I think it's an answer to what she wants to  
15 address and we would support her on it.

16 I think it's a good answer to the spirit of HAVA  
17 in the foreign language and the disability support, and it  
18 can be used without any sort of precinct tabulation and any  
19 sort of central tabulation and we think that because it's  
20 just reading a ballot that it can be supported by LA  
21 County's opti-scanners at the headquarters. And we really  
22 think it's a good fit for LA County and we think it will  
23 make Conny's life a lot easier.

24 CHAIRPERSON WOOD: Thank you, Mr. Keenberg.

25 Babara Levy, Ted Newman, Joan Quinn.

1           MR. MARCH: You skipped me, sir. March. I'm on  
2 that other sheet, I'm sorry. We talked about that  
3 yesterday.

4           CHAIRPERSON WOOD: All right. Well, come on down,  
5 Mr. March.

6           Let me just run through those names again. So Mr.  
7 March, Ted Newman, Barbara Levy, Joan Quinn.

8           MR. MARCH: Jim March, Black Box Voting.

9           Our organization does not yet have enough  
10 information to call for the decertification of the ES&S the  
11 way we have for Diebold. We don't have enough information  
12 to call for you to not certify some of the components before  
13 you today.

14           We like the ideas behind the AutoMARK. We're  
15 concerned that it's an early version, and we're concerned  
16 about the price, five thousand bucks a pop. Well, an open  
17 source equivalent can be done for \$1,500 or less.

18           Our real concerns, however, are, as most other  
19 people have stated, with the pieces upstream, or it might be  
20 better to say downstream, of the AutoMARK. The items that  
21 process those paper ballots, put them onto electronic memory  
22 cards and then tabulate them that way.

23           We have a specific reason to ask this department  
24 to look at the memory cards. Mr. Lou Diddier sitting behind  
25 me used to work for this agency, and while he did so, he

1 discovered a flaw in the tamperability of those memory  
2 cards. He reported this flaw to a Diebold employee, Deborah  
3 Sear, also a former department member, and he said he  
4 cracked the contents of an ES&S memory card in about an  
5 hour. That was in 2001. Laptops have gotten faster, so has  
6 cracking software, so what was an hour then could be as  
7 little as 15 minutes today, even assuming the same level of  
8 skill. So he says he can crack the contents of an ES&S  
9 electronic ballot box.

10 According to a public records request I filed with  
11 this department, no written comments of that nature are on  
12 file with this agency. So he told a Diebold employee, but  
13 he didn't tell his own bosses here while drawing a paycheck  
14 here. And then nine months to a year later, I'm not sure of  
15 exact dates, he went off to work for ES&S at a higher  
16 salary. Now, I have concern about that, but let's not go  
17 there. It is enough to ask that you evaluate the security  
18 of those electronic ballot boxes.

19 Another thing you should be aware of, our expert  
20 testimony from yesterday, Mr. Harri Hursi, he found in old  
21 Diebold documents the particular flaw he found in the  
22 Diebold product appears to have been introduced  
23 approximately 1996. That's the same year that Bob Orosovich  
24 left ES&S and came to Diebold. And that's very common --

25 CHAIRPERSON WOOD: Mr. March, your two minutes are

1 up, thank you. You're going to wind it up quickly?

2 MR. MARCH: Ten seconds.

3 CHAIRPERSON WOOD: Thank you.

4 MR. MARCH: It's very common for a particular  
5 software idea to flow from one company to another with the  
6 personnel. So there is two different reasons for doing your  
7 technical evaluation of that issue and I hope you will  
8 proceed as quickly as possible on that subject.

9 Thank you.

10 CHAIRPERSON WOOD: And following Ms. Quinn, Jan  
11 Roberts, Linda Russell.

12 MS. QUINN: Good morning. No acrimony. I promise  
13 I'll be short.

14 I just had a question, it had to do with Mr.  
15 Diddier --

16 CHAIRPERSON WOOD: Please state your name.

17 MS. QUINN: Oh, I'm sorry, Joan Quinn,  
18 representing myself.

19 I had a question. Mr. Diddier was before at this  
20 microphone and the Panel had no questions for him. Now, I  
21 know the Panel received a letter from Black Box Voting  
22 regarding the internal memo about the crackability of the  
23 ES&S system and I was curious. Or maybe I don't need an  
24 answer to the question of why there were no questions from  
25 the Panel asked of Mr. Diddier about the crackability of the

1 system.

2           Maybe instead of asking for the answer to that  
3 question, I can just invite the Panel to ask Mr. Diddier to  
4 testify here about the truth, you know, what does he know  
5 about the crackability, either to admit or deny that he  
6 wrote this memo when he was working for the state of  
7 California, working for me. I'm a life-long resident of  
8 California, working for you on this Panel, but yet did not  
9 tell his bosses about the crackability, then goes to work  
10 for ES&S at a higher salary. I'm interested in the answer  
11 to those questions, why he didn't report it to his bosses,  
12 one of which is me. So we have a request for this honorable  
13 Panel to ask Mr. Diddier that question, he's sitting right  
14 here. I want to know the answer to that.

15           Thank you.

16           (Applause.)

17           CHAIRPERSON WOOD: Jan Roberts, Linda Russell,  
18 Judy Schriebman, Maureen Smith.

19           MS. SMITH: Maureen Smith, Peace and Freedom  
20 Party.

21           Over a year ago, the time that Diebold was  
22 examined during the primary election, this body, this body  
23 constituted at that time of the VSPP, promised to look at  
24 all the systems, every single system in the state of  
25 California. They only looked at 17 systems that were

1 Diebold systems for 17 counties. And that promise was in  
2 effect until everything started falling apart at the  
3 Secretary of State's office under the pressure of lawsuits  
4 and so forth. But that was a very important promise and it  
5 leads to a few requests that I have numbered and will state.

6 Please do not certify any equipment and/or  
7 software conditionally when so many dollars are at stake.  
8 Unfortunately, there is an election coming up in November  
9 and because of that, please ensure that the security  
10 measures required by Secretary -- security measures and the  
11 paper ballot option required by Secretary of State Shelley  
12 are applied to and enforced at the November election.

13 Now, I have worked polls before, but now I have to  
14 be a poll watcher. I can't work for the county because I  
15 can't trust the systems, in Santa Clara County at least. I  
16 spent 13 hours in November in front of the polls because the  
17 registrar of voters refused to tell the people that they had  
18 the paper ballot option. And I had people thanking me and  
19 telling me that if I hadn't been there, they wouldn't have  
20 had the nerve to ask for a paper ballot. All I was doing  
21 was informing them of their right to a paper ballot. It's a  
22 real problem in the state, it's a revolution of the  
23 registrar of voters against the Secretary of State's office,  
24 and it is not.

25 The final thing is investigate all systems as



1 promised formerly by the Voting Systems and Procedures  
2 Panel.

3 Thank you.

4 CHAIRPERSON WOOD: Thank you.

5 (Applause.)

6 CHAIRPERSON WOOD: Michael Smith, Jim Soper, and  
7 Steve Weir.

8 MR. SMITH: Michael Smith, Peace and Freedom  
9 Party, Santa Cruz County.

10 I would like to add this concern that an audit was  
11 required or at least stated would be done on all systems and  
12 it only got as far as auditing the Diebold system. And so  
13 we're calling for the audit of all electronic voting systems  
14 or we will never know if there are problems with the others  
15 until that happens. We didn't know that with Diebold.

16 My concern too is with the option of paper  
17 ballots. There definitely should be an option for paper  
18 ballots for any precinct having electronic voting, but also  
19 the Secretary of State's office should send out signage in  
20 the languages that those ballots are printed in, and it must  
21 be displayed in public view in every precinct that that is  
22 an option. Because, as we have heard many times here,  
23 people have not been informed, even though the paper ballots  
24 were there and they had that option, and in many cases,  
25 paper ballots were not made available.

1           I would also ask that a hotline to the Secretary  
2 of State's office be printed, along with the information  
3 that people can get a paper ballot on their sample ballots,  
4 on the very front cover, so that if they go into a polling  
5 place and they are not able to get a paper ballot or for  
6 some other reason there is a problem with this, they can  
7 address the hotline as to what precinct, what county it's  
8 coming from, so forth and so on.

9           One other concern I have is the weight of the ES&S  
10 equipment. I believe it was mentioned yesterday with the  
11 case and so forth, you're looking at 67 pounds. I'm  
12 concerned about the workers in the warehouse, of which I am  
13 one, mainly just lifting or having to move this weight of an  
14 item. You look at the people who are working at polling  
15 places, and many of those people do not have the strength to  
16 lift these. There are ways to get around it certainly,  
17 putting them on wheels and so forth.

18           CHAIRPERSON WOOD: Your time --

19           MR. SMITH: But those are my concerns. Thank you  
20 very much.

21           (Applause.)

22           MR. SOPER: My name is James Soper. I've been a  
23 programmer for over 26 years, and I was a senior consultant  
24 at Digital Equipment's European Technical Headquarters for  
25 five years.

1           About ES&S, the good side is that it prints out  
2   the official ballot, and I don't think any system with a  
3   touchscreen for voter input system should be certified  
4   unless it prints the ballot. The audit trail is not enough  
5   because we don't know what is going on inside the DRE, as I  
6   explained yesterday.

7           The bad side. One thing that makes me very  
8   nervous is that this Dell Latitude laptop, I called Dell  
9   yesterday and wireless is standard, and that's not good.  
10   You must understand that somebody can sit outside in a car,  
11   connect to the machine and play with it and nobody would  
12   know. And that's scary. That's scary. That shouldn't be  
13   in there, but at least on this system, if it's printing the  
14   ballot, then there is some verification, but it still scares  
15   me.

16           Then another problem with their system, on their  
17   scanners, the 100, the 550, and the 650 all have various  
18   pieces of writable media, as they explained yesterday,  
19   whether it's an EPROM or floppy disk, all of these can  
20   contain programming and none of them are checked, none of  
21   them go through certification. I'm talking about for the  
22   100, the compact flash memory card; for the 550, the EPROM  
23   memory chip, and there's a floppy disk that transfers the  
24   results to the Unity central tabulator; on the 650 there is  
25   a removable zip disk. All of these can contain a program,

1 none of them are checked. None of them are certified  
2 nationally or statewide. It's possible for that to happen.

3 CHAIRPERSON WOOD: Thank you, Mr. Soper.

4 MR. SOPER: Thank you.

5 (Applause.)

6 CHAIRPERSON WOOD: And following Mr. Weir, Kim  
7 Alexander.

8 MR. WEIR: Hi, Steve Weir, Registrar of Voters for  
9 Contra Costa County.

10 During the October 7, '03, recall election, we  
11 were forced to go off of a small card ballot because we  
12 couldn't get all of the candidates on three cards. And  
13 within 53 days we negotiated with ES&S to pull off an  
14 election, and 53 days is a very short period of time. They  
15 did it with us and we became impressed with their ability to  
16 move quickly.

17 When AutoMARK came out, it was before ES&S had the  
18 right to market it, before March 31 of last year. We had  
19 seen the AutoMARK system and actually felt it to be a really  
20 good product. When the two were married, I made the  
21 decision at that time that we would pursue looking at that  
22 for our HAVA compliance. We signed a two-phase contract.  
23 We now have the M-100s. We've been through two successful  
24 elections. I've observed over half the precincts in which  
25 in those two elections that's been used and we're learning,

1 and I'm very thankful, unlike some of my compatriots that I  
2 did not have to roll that out countywide.

3           So I have benefitted and my poll workers and my  
4 trainers from having a chance to use the M-100s in smaller  
5 elections. It was my great hope to be able to use the  
6 AutoMARK on June 7th, another small election. I'm not going  
7 to have a small election that I can use it on until the  
8 upcoming election on the 8th of November. In a way that's  
9 too bad. But I think if certified in time, we will roll it  
10 out at least partially and give ourselves the chance to  
11 learn that system, because notwithstanding anything that  
12 happens with it, my own staff has to work with it.

13           Then we have learned we must have trainers who can  
14 train the trainers who can then take care of the poll  
15 workers. It's a little more complicated than my older  
16 system, we think that we're getting it down pat, but I have  
17 to get my hands on that machine as soon as possible for my  
18 own staff's sake, then for my trainers' sake, then for our  
19 ability to roll the thing out for the special in November.

20           And just one last thing if I might, we end up  
21 running six to seven elections a year, in a way it's kind of  
22 good because you never get out of practice. I think that  
23 the November 8th special election will sweep the special  
24 elections from early '06 back into '05 and I won't get  
25 another chance to roll out that AutoMARK until that 6/06/06.

1    So please for the sake of those of us who have to use these  
2    machines, get this certified and get it into my hands as  
3    soon as possible.

4                   CHAIRPERSON WOOD:   Thank you.

5                   MS. ALEXANDER:   Good morning.   Kim Alexander with  
6    the California Voter Foundation.

7                   I have not had the chance yet to personally test  
8    out the AutoMARK, but I have read quite a bit about it, and  
9    I do tell you there's been quite a bit of discussion about  
10   it among a lot of the activists and computer scientists from  
11   around the state and country who are working on electronic  
12   voting reform and verification, public verification of  
13   election results.

14                  And the general consensus is that the AutoMARK in  
15   its design is moving in the right direction, that it  
16   represents something of a hybrid between the best of both  
17   worlds.  It uses the technology, the computer technology of  
18   a touchscreen to provide the accessibility and the language  
19   access that we need for our voting systems, but preserves  
20   the voting decisions on a paper ballot that can be optically  
21   read.  So we like the direction that it's going in.

22                  As with all voting equipment that the state of  
23   California considers, we, of course, want to make sure that  
24   everything that can be tested on the machine is tested and  
25   that all the federal qualifications have taken place and

1   that documentation is in the hands of the Secretary of  
2   State's office before certification by this agency.

3           The other concern that we have and I heard this  
4   discussed among some of the registrars quite frankly too, is  
5   the cost issue. The AutoMARK is priced at about \$5,500. In  
6   a large county like San Mateo, for example, or San  
7   Francisco, which are both ES&S customers, they have hundreds  
8   of polling places, they will need to buy one for every  
9   polling place. It's going to add up to a great deal of  
10  expense. So they are going to need, if this goes forward, a  
11  huge capital investment by a number of counties, and we want  
12  to make sure that if they go out and buy lots and lots of  
13  these AutoMARKs, that they get something that's going to  
14  last a decade, that is not going to need constant upgrading,  
15  that we're not going to find out after the fact ends up  
16  having some glitch or problem that we didn't anticipate.

17          So it's really important that we get all the  
18  testing and certification completely and thoroughly done,  
19  maybe have a vendor fair or something like that here in  
20  Sacramento where everybody can come and try out these  
21  machines and get some more feedback, and hopefully get the  
22  counties the choices that they need to be able to make all  
23  of those deadlines that are looming before us.

24           Thank you.

25           CHAIRPERSON WOOD: Thank you.

1           That will close public comment on Item Number 2.

2   We will go to Item Number 3 on the agenda.

3           Mr. McDannold, do you have anything to report on  
4   Item Number 3?

5           MR. MCDANNOLD: I have nothing to report on Item  
6   Number 3 at this time.

7           CHAIRPERSON WOOD: We have several folks that have  
8   indicated they would like to speak on Item Number 3. Cheryl  
9   Lilienstein, Marilyn Madrone, Joan Quinn.

10          MR. MARCH: You missed me again.

11          CHAIRPERSON WOOD: Come on down, Mr. March.

12          MR. MARCH: Well, the thing you need to know is  
13   that the federal certification process is broken.

14          MR. GULLAHORN: Your name for the record?

15          MR. MARCH: Name for the record is Jim March,  
16   Black Box Voting.

17          Look we've been complaining now for years that  
18   Diebold, in particular, can be documented as having  
19   defrauded the federal oversight process on multiple  
20   occasions. On other occasions, things simply weren't  
21   caught.

22          A good example, every single Diebold system in use  
23   in California is running GEMS and GEMS does not have the  
24   ability to accept individualized logins on the central  
25   tabulator to track which human being does what operations on



1 the tabulator. It appears to have a login function, but on  
2 a practical level the login function doesn't work because  
3 you have to shut down all data processing to login as a  
4 different user. So when Black Box Voting goes to county  
5 after county and gets their audit trail under a Public  
6 Records Act request or the state equivalent, we see  
7 everybody login for months or years as user admin, user  
8 admin, user admin. That means they're not tracking what  
9 human being performs which function.

10 Now, that's just stupid, that's just insane,  
11 because that means it's perfectly safe to hack at the vote,  
12 to tamper with the election. Because even if your hack is  
13 caught, you're not. They don't track what human being loads  
14 batches of votes into the central tabulator, they don't  
15 track who takes batches of votes from one place to another.  
16 It's madness.

17 Well, all of this violates FEC regulations from  
18 both 1990 and 2002. They're completely out of compliance  
19 with both sets of regulations. That right there is grounds  
20 to throw Diebold out of the state, which is why we called  
21 for that, among other reasons. But the fact the feds didn't  
22 catch that, nevermind the fact the feds didn't catch the  
23 backdoors that Mr. Hursi found in Leon County.

24 Oh, good, here's a good one for you. Years ago,  
25 literally 2003, Bev Harris and I complained that --

1 CHAIRPERSON WOOD: Mr. March, your time is up.

2 MR. MARCH: Twenty seconds, I promise no more.

3 CHAIRPERSON WOOD: Okay.

4 MR. MARCH: We've complained that the spyrus smart  
5 card devices, VC Programmer, and Windows CE were all  
6 uncertified software Diebold is installing in the counties.  
7 Diebold has since starting in October of 2004 submitted  
8 those for certification. So they've agreed we're right.  
9 But how did the federal oversight process miss that? Look,  
10 if the federal oversight process doesn't work, the whole  
11 system is broken top to bottom, and if there ever was a  
12 reason for delaying the HAVA implementation date of 1/1/06,  
13 that's it, the federal process doesn't work.

14 (Applause.)

15 CHAIRPERSON WOOD: Ms. Quinn.

16 MS. QUINN: Once again, no acrimony. Two minutes.

17 The voting machine certification process has not  
18 complied with FEC standards since 1990.

19 Oh, I'm sorry, Joan Quinn, representing myself.

20 Voting machine certification process has not  
21 complied with FEC standards since 1990, that's basic. If  
22 they don't comply with the elections standards, how can we  
23 possibly consider purchasing systems that don't comply with  
24 the minimal standards for operation, for in any area of  
25 life, not to mention voting, the basis of the republic.

1           Another comment. The NASED, which is the National  
2 Association of State Election Directors, has taken money  
3 from the vendor industry. R. Doug Lewis is the head of the  
4 NASED and he's admitted that the NASED has taken money from  
5 vendors. Nobody knows the providence, the providence of R.  
6 Doug Lewis is unknown. I would be interested in finding  
7 out. And R. Doug Lewis wrote an article in 2003 which was  
8 rebutted by the state of California's expert David  
9 Jefferson. The NASED process is absolutely not transparent,  
10 it cannot be relied upon.

11           So when you have this constant influx of people in  
12 the industry, their influence is unconscionable and I ask  
13 you to use common sense, which I'm sure you have in  
14 abundance, and don't certify machines that don't meet  
15 federal standards. And the laws were written for a reason,  
16 aren't we supposed to be a state, a country based upon law.  
17 That guides us. So please consider that.

18           CHAIRPERSON WOOD: Thank you.

19           (Applause.)

20           CHAIRPERSON WOOD: That will close Item Number 3.  
21 Item Number 4 is listed as -- I'm sorry, did I miss somebody  
22 again? I'm sorry, our cards seem to have gotten a little  
23 confused, but please come forward, Mr. Soper.

24           MR. SOPER: James Soper.

25           I would like to echo the previous two speakers

1   that there seems to be problems with just federal  
2   certification of systems. Just as an example, Diebold  
3   systems use Windows CE, and they were being passed along as  
4   off-the-shelf software. Windows CE is not off-the-shelf  
5   software. You can't go over to Frys and buy it. You get it  
6   with the primary manufacturers that sell the machines, they  
7   have to write their own DLLs, among other things, to make  
8   the whole hardware system work. And a DLL is a program.  
9   They are writing programs that are not being reviewed by the  
10   federal level, they are not being tested. This is a clear  
11   violation of the law and it should not be acceptable.

12           Another one is that the ES&S systems were  
13   certified to the 1990 standards, not the '02. And anything  
14   that's being submitted as of January of this year is  
15   supposed to follow '02 standards, not the 1990, it just  
16   doesn't follow the law.

17           Finally, I think the real problem, among other  
18   things, is that the vendors are paying the testers. And  
19   this is a fundamental problem. It's as if somebody is  
20   selling you milk and it's being tested, but the manufacturer  
21   of the milk or the producer of the milk is paying the  
22   tester, so the tester says, oh, yes, we want your business,  
23   it's okay. The system doesn't work.

24           And I would like to see the great state of  
25   California stand up and push back and say this is not right.

1           Thank you very much.

2           CHAIRPERSON WOOD:   Thank you, Mr. Soper.

3           (Applause.)

4           CHAIRPERSON WOOD:   I think we come to Item Number  
5   4 of the agenda now, which is listed as other business,  
6   normally that would be items for the Secretary of State's  
7   office, in terms of scheduling and things like that.   But I  
8   notice that a number of folks certainly yesterday signed up  
9   to speak on Item Number 4, other business.

10           Let me just say this, you know, I think we can  
11   probably accommodate, if you would like to actually say  
12   something relating to other business, but there is nothing  
13   before the Secretary of State now in terms of a decision or  
14   anything that we could do based on whatever you say today,  
15   it would just be a comment.

16           So again, you're going to have a period to submit  
17   written comments for another two weeks and everything will  
18   be reviewed by the Secretary of State.   If you think that  
19   that would be a way to accommodate your views and have you  
20   present your views to the Secretary of State, that option  
21   exists.   But if you would like to continue, I can read some  
22   names and if people would like to speak as to Item Number 4,  
23   we can do that.   But just bear in mind there will not be  
24   anything that can be done at this point based on whatever  
25   you say today.

1           So with that in mind. I'm sorry, and there was a  
2 gentleman that came forward earlier today.

3           I'm sorry, sir, do you want to come down?

4           Can I get you to state your name, sir.

5           MR. DECHERT: I'm Alan Dechert, I'm the President  
6 of the Open Voting Consortium.

7           And I'd like to speak as an expert here, so this  
8 might go over two minutes, I hopefully won't take very long.

9           CHAIRPERSON WOOD: Thank you, sir.

10          MR. DECHERT: I want to speak to several things  
11 that were said yesterday, as well as a couple of things  
12 we're hearing today.

13          MR. GULLAHORN: Can you state what your  
14 qualifications are?

15          MR. DECHERT: I will get to that in a moment. I  
16 am a software engineer. Right now my basic job is  
17 administration of the Open Voting Consortium, but I have 15  
18 years experience as a software engineer. My name is on  
19 commercial software from Borland International, also I'm a  
20 test engineer with Intel. I'm the chief architect of the  
21 software that we demonstrated publicly to great public  
22 acclaim for several voting applications. And I've published  
23 a number of academic -- well, I and my co-authors have  
24 published quite a few papers on voting and I will hand them  
25 to you. Some of these have been published in scientific

1 journals.

2 CHAIRPERSON WOOD: Thank you.

3 MR. DECHERT: My co-authors tend to be some  
4 prominent professors in the University of California system.  
5 We heard from Arthur Keller yesterday.

6 I will read this. This is from four years ago,  
7 this is a proposal that I co-authored with Henry Brady of UC  
8 Berkeley, and it says, "You have proposed a voting system  
9 development project that would be PC-based, open source, and  
10 inexpensive. The idea has real and substantial merit and it  
11 is definitely worth exploring. In fact, as you know, Roy  
12 Saltman, the author of the two best-known books on  
13 computerized voting has agreed to work on this project and  
14 he is enthusiastic about developing the kind of system you  
15 have proposed." This is four years ago.

16 Roy Saltman, in case you're not aware of it, is  
17 one of the premiere experts who wrote the books on the use  
18 of computers in voting. This also is a paper where I was  
19 cited in Roy Saltman's 2003 publication titled Auditability  
20 of Poll Site Voting Systems. I'm cited, and I'm the only  
21 person cited in this paper. On page 6, it says, "A system  
22 such as this has been proposed for use in California. This  
23 type of system would be acceptable to those demanding a  
24 voter-verified audit trail."

25 Here I am cited as an expert. This is the

1 National Commission on Federal Election Reform. I know  
2 there are a few people here that were a part of that, and  
3 I'm cited as one of the contributors to that. This is 2001.

4 Here's a paper debunking a paper by Sal Paul of  
5 the University of Utah and Michael Alvarez of Cal-Tech. I'm  
6 the co-author with about 15 professors of computer science.

7 I have given a number of speeches on voting. This  
8 is from a presentation I gave to UC Santa Cruz in 2003.

9 By the way, I see Joe Levine here. And you can  
10 see I've been working on this proposal.

11 You've heard a lot of people in the last few days  
12 come up here and say we want a nonproprietary system with  
13 open source. I'm not going to take credit for all of that,  
14 but I have been promoting this for four years, over four  
15 years. I met with the County here in Sacramento and this is  
16 the handout that I gave four years ago. That's the early  
17 version of the proposal.

18 It has evolved since then and with no  
19 institutional support. I have several teams of scientists  
20 and engineers on various occasions to issue reports to build  
21 software prototypes and demonstrate those publicly.

22 This is from the Mercury News. Last year they  
23 called our system the Holy Grail of elections systems, as  
24 they saw it. We offer a printed paper ballot, a summary  
25 paper ballot, as well as open source software.



1           This is a letter from the president of the  
2   University of California, Robert Dunning.  It's a letter to  
3   me.  He says, "The University of California is fortunate to  
4   have on its faculty many researchers with extensive  
5   knowledge in public policy, political science, and computer  
6   science."  He goes on to say, and he's referring to the  
7   proposal that I have been pushing for four and a half years,  
8   "I have no doubt that UC researchers can make great  
9   contributions in this area."

10           CHAIRPERSON WOOD:  Mr. Dechert, let me ask that --  
11   I think you've given us, and again you have more material, a  
12   great deal of information to be able to digest.

13           MR. DECHERT:  Okay.

14           CHAIRPERSON WOOD:  Could I give you one more  
15   minute, please, and then whatever material it is you want  
16   Secretary of State to review, please pass that along.

17           MR. DECHERT:  Okay.  I want to speak to a couple  
18   of -- one thing that you said yesterday was that the  
19   Secretary of State is committed to an open and public  
20   process for selecting voting systems.  Is that a fair  
21   characterization of what you said?

22           CHAIRPERSON WOOD:  Yes.

23           MR. DECHERT:  That remains window dressing as long  
24   as the details of these systems are secret.  You've heard a  
25   couple of people speak to the federal certification process.

1 It's basically one private company going to another private  
2 company to have them tell them the system is good. They  
3 paid them money to tell them the system works. There is no  
4 transparency in this process. I'm a professional test  
5 engineer, I've built test plans, test cases. If you ask for  
6 a detail of what test cases were run on these machines, it  
7 is not available. It is not available.

8           When you talk about -- people here say federal  
9 certification, you need to know what that means. It doesn't  
10 mean a lot. It means that one company paid another company  
11 to tell them it's good. There is no transparency, the  
12 details of that are unknown. They're known to a small  
13 handful of people. It is unavailable and this is out of  
14 your jurisdiction, but you ought to know this federal  
15 certification process is broken and it is one case where you  
16 need open source. We need open source test cases. There is  
17 no excuse for not publishing what test cases are run on  
18 these machines in detail. This is not done, it's totally  
19 unavailable.

20           CHAIRPERSON WOOD: Thank you. Could I just ask  
21 you to go to a close at this point, Mr. Dechert, we have a  
22 number of other folks.

23           MR. DECHERT: Right.

24           CHAIRPERSON WOOD: Thank you.

25           MR. DECHERT: One thing I want to talk about was

1 the ballot -- well, disabled access people were up here  
2 yesterday. There were two points that they made that were  
3 very important. One is that they want one system. They  
4 don't want a system that is for disabled people and another  
5 system for more conventional able-bodied.

6 The system that we developed is a ballot printer  
7 system. There is a difference between a ballot printer and  
8 a ballot marking system. Now, the ballot marking system  
9 that ES&S is talking about solves a lot of problems, but it  
10 does not eliminate the preprinted ballot, that's very  
11 expensive. Our system is a ballot printer system, it prints  
12 the ballot on plain paper, so it's much less expensive.

13 One of the points besides the universal system,  
14 which ours is, it's the same system. It's just a different  
15 interface that the user uses, one is auditory, one is by  
16 touch, but it prints the ballot on the spot. A completed,  
17 printed ballot.

18 The other points that they made, one of the  
19 disabled rights activists made, was that there was no way  
20 for a blind person to verify their vote on a paper ballot.  
21 We demonstrated publicly that a blind person can use this  
22 system. They can print out the ballot, put it in the  
23 folder, and take this and put it under a bar code reader and  
24 have the results read back to them. We demonstrated that  
25 publicly. They were partially correct in saying there is no

1 real good system for this because this is not certified at  
2 that point. We are -- we need public funding to make public  
3 software available. This is done with volunteers.

4 CHAIRPERSON WOOD: Thank you, Mr. Dechert.

5 Settle down again, folks. Let's try to keep  
6 everything calm. There's more opportunity to present your  
7 information.

8 I will tell you what, Mr. Dechert, how about  
9 another five minutes and all of the material that you want  
10 the Secretary of State to consider.

11 MR. DECHERT: Okay.

12 CHAIRPERSON WOOD: Thank you.

13 (Applause.)

14 MR. DECHERT: The system that we demonstrated to  
15 public acclaim, also there is several components to that,  
16 one is the application that prints this ballot either for  
17 sight-impaired people or normally sighted people, but also  
18 we demonstrated a system for precinct-level tabulation.  
19 It's all open source. The votes are written on nonvolatile  
20 memory, nonvolatile memory, on CDs.

21 A lot of this stuff, we have not gotten  
22 institutional support, we're plowing ahead. The open source  
23 tabulator that Arthur Keller talked about yesterday, we have  
24 developed a plan for building this equipment as well using  
25 off-the-shelf scanners and PCs with open source software.

1           The idea generally of open voting, and I want to  
2   correct one thing that you said earlier was you said it's  
3   about open source. It really isn't. Open source is a  
4   consequence of open voting. Open voting means that all  
5   aspects of election administration be made publicly  
6   available in a systematic and regular way so that we don't  
7   have to dig for information. It should be presented to  
8   people so that we don't have to ask questions, we can go to  
9   a website, whether I want to know how many machines, what  
10   machines are at my poll site, what the specifications are of  
11   those machines.

12           Any kind of detail of the voting system should be  
13   publicly available. It should be at our fingertips. There  
14   should be no secrets. There is no excuse for secrets in our  
15   voting system. And the need for open source is a  
16   consequence of the need for transparency. It's not the  
17   primary thrust of the Open Voting Consortium, open source is  
18   just one piece of that. Every piece should be open and  
19   publicly inspectable.

20           And one thing that Debbie Hensch said yesterday,  
21   she said that there was some confluence of open source and  
22   escrow. It has nothing to do with it. Escrow does not mean  
23   open source, it just means that a slightly larger pool of  
24   people had access to that vote.

25           One of the values of open source is that we can

1 engage the open source community. The site that we're on  
2 that our software is held is called SourceForge. There are  
3 700,000 software engineers signed up on SourceForge  
4 developing open source software to replace proprietary  
5 systems. And those people could help with ES&S. We're not  
6 competing with ES&S. We are designed to be a consortium, we  
7 want to move these vendors to open voting, and by moving to  
8 open source, you're going to have thousands, hundreds of  
9 thousands of engineers that want to help clean up the  
10 software code and to test it. We'll engage a vast pool of  
11 talent and resources to develop software that's impeccable.

12           And somewhat paradoxically, open source software  
13 which is running most of the internet these days, it is the  
14 most secure software out there for that reason that you have  
15 an army of scientists and engineers pounding on that  
16 software. And aside from passcodes, there is very little in  
17 the voting system that needs to be secret. And the fact is  
18 if you put these engineers on it, you will get software, the  
19 most secure software available, which is now apparent with  
20 the software running the internet, the best and most robust  
21 software on the internet is all open source.

22           And it's much less expensive. In fact, using some  
23 of the HAVA money, you took delivery of \$169 million, a very  
24 small percentage of that, we can build public software that  
25 can be used over and over again, you don't have to keep

1 buying and paying for licenses, you know, GEMS is \$40,000  
2 for every county that uses it, something like that. It will  
3 be free, it can be used, not only at this state, but go to  
4 other states as well.

5 Okay, thank you.

6 CHAIRPERSON WOOD: Thank you, Mr. Dechert.

7 (Applause.)

8 CHAIRPERSON WOOD: Steve Chessin, Carol Cyr.

9 MS. CYR: Hello. Again, my name is Carolyn Cyr.  
10 I'm affiliated with California Election Protection Network.  
11 And, as I mentioned before, I'm on the Strategy and  
12 Communications Committee of SoCal Grassroots, whose members  
13 number in excess of 17,000 California voters. It is as one  
14 of those California voters that I am here today.

15 To understate the matter, I have concerns. I am  
16 concerned about the current rush towards certifying machines  
17 for use by corporations which have software with known and  
18 documented security and operational problems, problems which  
19 have without a doubt resulted in rancid elections across the  
20 country, including California. I am doubly concerned that  
21 there seems to be resistance towards developing and adopting  
22 machines with nonproprietary software.

23 An additional concern is that portions of the  
24 actual testing procedures of the highly questionable  
25 machines have been blacked out so that we do not know all

1 details of the testing. Concerns are also raised that the  
2 efforts of the voters to participate in a process of  
3 ensuring transparent certification procedures are being  
4 thwarted in this hearing by limiting speakers concerns to  
5 two minutes and by not allowing speakers to yield their time  
6 to others, if they so choose.

7 I have lived in California since 1977, for three  
8 quarters of my life. Before that, we moved around, I'm the  
9 daughter of a Naval veteran, I was in a different state  
10 every year. I now call California my home. If you rush to  
11 certify machines that are not reliable, you will be  
12 assisting in destroying my home.

13 I urge the Panel and all involved in certifying  
14 these machines, including the Secretary of State, to please  
15 widen your scope of vision to looking at machines with open  
16 source coding and also nonelectronic voting options and to  
17 sincerely and seriously consider the concerns of all  
18 California voters.

19 CHAIRPERSON WOOD: Thank you, Ms. Cyr, your time  
20 is up.

21 MS. CYR: Thank you.

22 (Applause.)

23 CHAIRPERSON WOOD: Dan Ashby. And following Mr.  
24 Ashby, Beth Herman, Mark Keenberg, Karen Inderland.

25 MR. ASHBY: Okay. As I previously stated my name



1 and affiliation, I will just proceed with what I want to  
2 present which is an information packet to share with the  
3 Panel prepared by the California Election Protection Network  
4 of which I'm a member.

5 Just to speak to the contents of the package, it  
6 begins with a citation of California law. It proceeds to a  
7 statement of clarification of decertification and  
8 recertification orders from Secretary of State Kevin Shelley  
9 which instituted many of the protection measures that we're  
10 urging the state to enshrine in law.

11 It goes to a recent Hayward Review article  
12 documenting the failures of the testing of the recent  
13 Diebold application and redaction of the official testing  
14 parts. It goes to a news story from Maryland, a report  
15 actually, on the failure of the Diebold TSx voting machines  
16 in that state and the subsequent calamity that state has had  
17 to endure for having purchased a defective system.

18 A whole series of descriptions of violations of  
19 VSPP procedure involved in this hearing prepared by Mr. Jody  
20 Holder. A memo from Black Box Voting authored by Jim March  
21 describing the exploit of the Diebold electronic ballot box  
22 programming card, which is also applicable to the ES&S  
23 systems that you're about to consider. There is a sample of  
24 a Diebold Election Systems federal certification report that  
25 shows that the critical security measures are left

1     unchecked, unremarked, it's a sham process.

2             There is a statement in here by John Gideon about  
3     the new Diebold AVVPAT printers that shows that they do not  
4     stand the test of common use or of national standards,  
5     because there are none. There's an excellent paper by Open  
6     Voting Consortium detailing why Diebold is an untrustworthy  
7     vendor and why there is a better solution. And a series of  
8     voting technology costs and considerations based on the  
9     experiences of New York state and Connecticut. There's a  
10    whole variety of other material in here, including explicit  
11    examples of how elections can be stolen using currently  
12    configured systems available in this state and others.

13            And I want to close with a statement that I put on  
14    the cover of this statement from Secretary Shelley about  
15    last year recently after the audit disclosures in which he  
16    said the core of our American democracy is the right to  
17    vote, and implicit in that right is the notion that the vote  
18    be private, that vote be secure, and that vote be counted as  
19    was intended when it was cast by the voter.

20            I think what we're encountering is a pivotal  
21    moment in our democracy where all that is being called into  
22    question, the privacy of the vote, the security of the vote,  
23    and the accuracy of the vote. It troubles me and it should  
24    trouble you.

25            (Applause.)

1           CHAIRPERSON WOOD:   Beth Herrmann, Marc Keenberg,  
2   Karen Inderland.

3           MR. KEENBERG:   I'm Marc Keenberg, I introduced  
4   myself before, from the California Election Protection  
5   Network.

6           I'm going to read a statement from somebody else,  
7   Jody Holder wrote this.   And notice how I read, I'm kind of  
8   a poster boy for why the small AVVPAT on the Diebold isn't  
9   very good.   I have pretty bad eyesight for anything close.

10          This concerns the manual audit, one percent manual  
11   audit.   Procedures for use must clearly establish a uniform  
12   process for conducting the required one percent audit.   A.,  
13   the procedure must fulfill the Election Code mandate to  
14   check the accuracy of the automatic count.   B., they must be  
15   uniformly applied to every voting system so every vote has  
16   an equal opportunity to be recorded and counted accurately.  
17   C., the audit must hand count paper ballots, whether optical  
18   scan, paper ballots, ballot receipts, or provisional ballots  
19   that are created prior to the vote tabulation system  
20   processing.   No ballots, no ballot images created by the  
21   vote tabulation system shall be used for the manual audit.  
22   D., the choosing of precincts shall be by lot or similar  
23   random method and publicly conducted.   The procedures for  
24   use should specify that the redundant record of votes,  
25   whether in the resident, memory card, such as Riverside

1 County, or other forms containing the voted electronic  
2 ballots may be utilized in any contested election, such as  
3 in a recount that's requested by the contestant.

4 This is for testing, yearly testing, of voting  
5 equipment. The Secretary of State of California should  
6 establish an open, rigid, and vigorous testing program for  
7 ensuring that all voting systems being used or proposed for  
8 use in this state are secure from fraud or manipulation.  
9 All voting systems currently certified for use in this state  
10 shall be reviewed by the criteria established for testing of  
11 new voting systems and as required by California state law.

12 CHAIRPERSON WOOD: Mr. Keenberg, your time is up,  
13 thank you.

14 MR. KEENBERG: Two more.

15 CHAIRPERSON WOOD: Okay.

16 MR. KEENBERG: To be done by January 1st each even  
17 numbered year.

18 Thank you.

19 CHAIRPERSON WOOD: Thank you.

20 Karen Inderland, Suzanne Jarrett, Michael Jay.

21 MS. INDERLAND: Hi, I'm Karen Inderland again with  
22 Citizens Act, and also the California Election Protection  
23 Network.

24 And I just wanted to address that I think it is  
25 really important that we pursue the open source voting and

1 that we look into how we can bring costs down on these types  
2 of machines. They're not real difficult and it shouldn't be  
3 such a guarded computer system that we can't learn how to  
4 print a ballot or mark a ballot. And that's a valid use of  
5 those HAVA funds. And so we would ask you that the research  
6 and development money be spent in that area.

7 Also, I would like to address the two minute  
8 speaking for all of the public who has come here today and  
9 yesterday, and to let you know that it is so important that  
10 you know what we're thinking, and how else do we reach you.  
11 We followed all the procedures, we've contacted people. It  
12 seems that our words are falling on deaf ears, and that's  
13 why we become loud in these rooms. And it is so important  
14 that we are all on the same page. It's not a vote, it's  
15 your vote.

16 So that's what I would ask.

17 CHAIRPERSON WOOD: Thank you.

18 MS. INDERLAND: Thank you.

19 (Applause.)

20 CHAIRPERSON WOOD: Suzanne Jarrett, Michael Jay,  
21 Christopher Jerdonek.

22 MR. JAY: Hello again, Michael Jay from Southern  
23 California.

24 I couldn't help note the woman who said that she  
25 wished that some of the energy shown in the room yesterday

1 was put into poll watching, and I would like to state for  
2 the record that I took myself at my own expense to Ohio to  
3 be a poll watcher, which I did. I can bet safely others in  
4 this room did so too, I mean as volunteers.

5 I also want to note that the gentleman, I believe  
6 the registrar who spoke, who begged you to please certify  
7 the ES&S machine as it would make his job a lot easier.  
8 We're not here to make anyone's job easier, we have a  
9 different mindset about that. We're discussing elections  
10 and every vote. It's your responsibility to make sure that  
11 it adheres to the law and the spirit of the state vote for  
12 California.

13 Today I would like to echo the statement by the  
14 gentleman from Open Voting Consortium that there is no place  
15 for secrecy in this process. It truly boggles my mind that  
16 their report is redacted, that you would condone companies  
17 or a process that has any secrecy. This is an American  
18 vote. Open Voting Consortium offers an inexpensive expert  
19 system that would solve many of these problems and I beg you  
20 to consider it as well as an audit, a gold star audit.

21 Thank you for listening.

22 CHAIRPERSON WOOD: Thank you.

23 Christopher Jerdonek, Adrienne Kandel, Arthur  
24 Keller, Mimi Kennedy.

25 MS. KENNEDY: Thank you. These will be the last

1 remarks from me, I'm sure you're glad.

2 Ignorance is no defense against the law for an  
3 individual, and I think that that is true here. And I  
4 really would like to affirm Open Voting Consortium's  
5 solution. I think it sounds like a solution and we're not  
6 there yet.

7 In the meantime, I would also like to concur with  
8 what Michael Jay just said, the convenience, there are many  
9 competing interests here and our registrars of voters do  
10 have a really tough job, and they've been in charge of  
11 elections a long time. But because this is a seismic shift  
12 to electronic voting, their convenience in this rush to  
13 change really is not the priority here, at least I think for  
14 you making the decisions.

15 So I don't think coming out of here that you have  
16 to buy anything, I think that what we all have to do  
17 together is to show some wisdom in going forward with  
18 transitional solutions, and I think this Open Voting  
19 Consortium, I hope you do use some of our HAVA money for  
20 R&D, because I think that they may have a solution that  
21 would resound well to California.

22 And our teachers in this education process can be  
23 vendors. I prefer the computer scientists and I think back  
24 to NASA and where their rocket scientists, some of them said  
25 these O rings don't work, and people plunged past that and

1 the O rings failed and it was a disaster. I think that I  
2 trust our computer scientists in California, the 700,000  
3 electric voting engineers, the 700,000 that he quoted. I go  
4 for the numbers and then I go for trusting that, and I hope  
5 that you will too.

6 And thank you very much. I know that some  
7 official referred to this as a circus, and that kind of  
8 thing is what hurts the public. This isn't theater and it's  
9 not entertainment. I know you know that. So in the  
10 competing interests when you decide who to trust, I just  
11 want you to know I'm affirming the computer scientists, the  
12 Open Voting Consortium because of what I've heard here in  
13 the last two days.

14 Thank you.

15 CHAIRPERSON WOOD: Thank you.

16 (Applause.)

17 CHAIRPERSON WOOD: Scott Menzies, Amy Pearl.

18 MR. MARCH: You missed me again.

19 CHAIRPERSON WOOD: Well, I hate to say it, Mr.  
20 March, but for some reason your card just didn't seem to be  
21 in here.

22 MR. MARCH: I'm going to speak to you this time as  
23 myself, Jim March, not on behalf of Black Box Voting.

24 As you are probably aware, I received \$77,000 as  
25 part of a settlement against Diebold Election Systems in



1    which the state of California received \$2.6 million.

2               One of the first expenditures of some of that  
3    money on my part was \$2,000 to the Open Voting Consortium,  
4    so I put my money where my mouth is as far as support for  
5    them.

6               The reason I did that in large part was two good  
7    reasons. One, I just told you the federal oversight process  
8    is broken. That means that essentially the people of  
9    America are going to have to step in and backstop the  
10   federal oversight process, and the way you do that is  
11   through open source software.

12              The other reason, and one of the reasons my  
13   concern has only risen in the last two years, this last  
14   election cycle had more election-related violence than  
15   America has ever seen. We had the campaign headquarters for  
16   the Democrats right here in Sacramento had part of their  
17   building defaced. The Bush headquarters in Washington state  
18   raided and their computers stolen. We had tires slashed  
19   used for get out the vote measures in I believe it was  
20   Michigan. Tires slashed.

21              This isn't America, this is not what's supposed to  
22   happen. It's being driven by some of the same frustrations  
23   in the room, but channeled inappropriately, instead of  
24   appropriately as you saw yesterday. You may not have agreed  
25   at the time, but believe me that's a lot better than taking

1 an egg bomb to your local party headquarters or something.

2 This is serious folks, we've got to face this now.

3 I don't know if the state is taking it seriously  
4 or not. I don't believe they did fully under Shelley's  
5 operation, and honestly they were even worse under the Jones  
6 administration, that's the flat truth.

7 Among other things you've got HAVA R&D money that  
8 you can spend. The proposal on your desk from Open Voting  
9 Consortium, the first proposal, is to build a new central  
10 tabulator that can eat any other company's paper ballots, so  
11 they can eat an AutoMARK paper ballot, a Diebold paper  
12 ballot, anything. So that if you have a county such as  
13 Marin that questions the validity of their central  
14 tabulators, for less than just the cost of the GEMS  
15 software, they can build the new hardware central tabulator  
16 with commercial off-the-shelf scanners from Canon or Fujitsu  
17 or something and they can completely replace the closed  
18 source, closed door, Diebold and whatever other company's  
19 central tabulator with something that we can trust. And  
20 that system can actually --

21 CHAIRPERSON WOOD: Thank you, Mr. March, your  
22 time's up.

23 MR. MARCH: Ten seconds. That system can be built  
24 in place by the 1st of June 2006. That's the goal of what  
25 they want to develop with the UC system and have it running

1 by then so that counties with have a choice over the closed-  
2 source alternatives.

3 Thank you very much.

4 (Applause.)

5 CHAIRPERSON WOOD: Scott Menzies, Amy Pearl, Jan  
6 Roberts.

7 MS. QUINN: Ms. Quinn.

8 CHAIRPERSON WOOD: Ms. Quinn, did you put a card  
9 in?

10 MS. QUINN: Yes.

11 CHAIRPERSON WOOD: All right. Please come down.

12 MS. QUINN: Yesterday and today.

13 Joan Quinn, once again speaking for myself.

14 Okay. The current proposal is to build a new open  
15 source central tabulator that replaces privately owned  
16 central tabulators. It seems to me it's a no-brainer there.

17 As a native Californian, my mom's a native and my  
18 grandma is a native, California has long had a reputation  
19 for innovation. As I worked for right out of law school a  
20 county supervisor in San Diego, a Republican, I might add,  
21 we've been bragging about the first to do this and being the  
22 first to do that, and being innovative, and generally  
23 backing it up. Why don't we do that now, why don't we take  
24 a step backwards and consider making paper ballots hand  
25 counted until we develop this open source software. It's

1 going to be a hell of a lot cheaper.

2 I ask you to consider your fiduciary duties for  
3 the people of California. As a Board member, you do have  
4 fiduciary duties. I'm a Board member myself to a private  
5 organization and I take those fiduciary duties -- they're  
6 legal duties, they're legal responsibilities that you as  
7 Board members have. Please consider your fiduciary duties  
8 to spend public money wisely.

9 The voting machine certification process you've  
10 heard about ad nauseam, it does not comply with FEC  
11 standards. Diebold has admitted lying about certification  
12 and paid \$2.6 million in a settlement of a lawsuit for  
13 lying. Experts have testified Diebold can be hacked. ES&S  
14 can be hacked. I sat through these hearings hoping I would  
15 hear you ask Mr. Diddier to explain what was attributed to  
16 him in an internal Diebold memo. You didn't do it, I'm  
17 sorry. I wonder whether the general public wondered why. I  
18 think the public will also wonder why.

19 I ask you to consider your fiduciary duty to your  
20 public to avoid spending taxpayer money on uncertified and  
21 unreliable voting systems that are extremely vulnerable to  
22 lawsuits to enjoin their purchase. Spending public money on  
23 unreliable uncertified voting systems that are vulnerable to  
24 legal attack is not a valid expenditure of public money.

25 Once again, paper ballots hand counted, they

1 served us well for how many decades. They served other  
2 countries in the world fine. Why not go back to that until  
3 this public system developed through the UC system can be  
4 developed. I just think that you would be lauded through  
5 all the states, maybe through the world, who knows, for  
6 having the sense to step back, take a deep breath, look at  
7 the scientific evidence, and not purchase machines from a  
8 company that lied.

9 Thank you.

10 CHAIRPERSON WOOD: Thank you.

11 (Applause.)

12 CHAIRPERSON WOOD: Jan Roberts, Maureen Smith, and  
13 then Michael Smith and Gordon Wright.

14 MS. SMITH: Maureen Smith, Peace and Freedom  
15 Party.

16 I would like to endorse the formally mentioned  
17 gold star audit process, and I don't want to go into the  
18 details because I have just learned something else.

19 While we have been meeting this morning, another  
20 \$700,000 is going to Sequoia DRE voting equipment. I have  
21 had first-hand experience with the Sequoia system and it  
22 doesn't meet a couple of standards.

23 As far as privacy goes, well, my brother-in-law  
24 had the machine break down on him while he was voting and,  
25 of course, his ballot was exposed to the polling place

1 worker who had to come and fix, you know, the equipment for  
2 him or give him, you know, use a different card or  
3 something. So he did not have a private ballot in Santa  
4 Clara County in that election.

5           Additionally, the AVVPAT equipment that has been  
6 conditionally, I think it's conditionally, certified by this  
7 body does not produce privacy in as much as it does not cut  
8 off and become a separate ballot that can be randomly mixed,  
9 but is on a chain of ballots that can be traced. And those  
10 methods to ensure it is a private ballot, a secret ballot,  
11 have not been developed at this point.

12           Additionally, after working 13 hours poll  
13 watching, I went to watch the vote count and I stayed until  
14 10:30, they hadn't started it yet. I gave up watching it,  
15 but I was very much aware that it was Sequoia employees that  
16 were in charge of the vote counting in Santa Clara County.

17           CHAIRPERSON WOOD: Ms. Smith, your two minutes are  
18 up. Thank you.

19           MS. SMITH: Thank you.

20           (Applause.)

21           MICHAEL SMITH: Michael Smith, Peace and Freedom  
22 Party, Santa Cruz County.

23           Well, we would prefer certainly an all paper  
24 ballot election for November 8th. We feel that in lieu of  
25 that, the Secretary of State should definitely ensure that

1 the security measures and the paper ballot option required  
2 by Secretary of State Shelley be applied to and enforced,  
3 and I think that enforced is a very important word, at the  
4 November 8th election.

5 The second point is that the registrars of voters  
6 have complained about having too few poll workers for  
7 elections. The EEAC has funded a program to bring young  
8 people into the voting process by recruiting volunteers from  
9 colleges and universities, even from high schools. The  
10 Secretary of State should become involved in this process to  
11 make certain that California takes maximum advantage of this  
12 particular program.

13 Thank you very much.

14 CHAIRPERSON WOOD: Thank you.

15 (Applause.)

16 MR. WRIGHT: Gordon Wright from Berkeley,  
17 California.

18 CHAIRPERSON WOOD: And then after Mr. Wright,  
19 please, Ferris Gluck.

20 MR. WRIGHT: Thank you very much. The same  
21 companies, including Diebold, which make these voting  
22 machines have created automatic teller machines which by and  
23 large are accepted as transparent, consistent and certain.  
24 Because of the lack of transparency, consistency and  
25 certainty of these voting machines, as evidenced by numerous

1 reports and documented problems, there's a growing number of  
2 people who believe that these machines were created  
3 specifically so that they could be used in order to fix  
4 elections. And I use the word fix pretty much as it was  
5 used in the Downing Street Memo where it was stated that the  
6 intelligence and the facts were being fixed around the cause  
7 of war.

8           Voting and vote counting have been done by hand in  
9 many, many countries throughout history. Present day France  
10 and Germany continue to hold elections where people hand  
11 mark print ballots and count the vote by hand. In France  
12 many members of the community gather in the polling places  
13 after the vote and watch and listen as the votes are read  
14 out and recorded and tabulated. Hence the citizens can  
15 double check the vote count. The counts are then telephoned  
16 to central counting stations and the results are known  
17 within four hours in France.

18           In Germany, a professional civil servant class  
19 takes a week to carefully count by hand marked ballots to  
20 confirm the hand marked ballots to confirm the results  
21 reached by very reliable exit polls.

22           To not outlaw all of these machines at present, in  
23 my opinion, and go back to a simpler, less potentially  
24 corrupt method would indicate that we have already been sold  
25 out to corporate, political, financial, and bureaucratic



1 interests at the expense of all the citizens of this  
2 country.

3 To repeat, the integrity of our vote and the vote  
4 counting process is mission critical to democracy and to our  
5 Constitution. Please stand up, let all of you, or at least  
6 some of you, be recorded as heros and not zeros in the  
7 record of history. Who dare to stand up for democracy in  
8 our Constitution, dare to think more about that, than about  
9 going along with the process of a system which seems to wish  
10 to place everything under its control. Please be heroes,  
11 not zeros.

12 (Applause.)

13 MS. GLUCK: Good morning, again. My name is  
14 Ferris Gluck and I just wanted to read this -- was I  
15 supposed to wait to be called?

16 CHAIRPERSON WOOD: No, no, no. Go ahead.

17 MS. GLUCK: I wanted to read this statement about  
18 some recommendations for solutions for our problems now. It  
19 begins with the statement, auditability equals legitimacy,  
20 not one more election in California before our election  
21 integrity issues are satisfied. In the following protocol  
22 will offer our citizens checks and balances that their vote  
23 is counted as cast, and this is the gold star audit. It's  
24 voter-verifiable paper ballots on archival paper that are  
25 able to be shuffled to retain secrecy of the sequence of

1 voting, along with a gold star audit that has five points as  
2 it's requirement. One, mandatory audits of all elections.  
3 Two, genuinely random sampling of at a minimum five percent  
4 of all precincts, and within the random sampling above,  
5 recount a hundred percent of the paper ballots or paper  
6 audit trails, or have them hand counted by a nonpartisan  
7 oversight in a public forum. And five percent is a minimum,  
8 they are subject to change if credible scientific  
9 information suggests an increase is prudent.

10 Thank you.

11 CHAIRPERSON WOOD: Thank you.

12 (Applause.)

13 CHAIRPERSON WOOD: Mr. Soper were you raising your  
14 hand.

15 MR. SOPER: Yes.

16 CHAIRPERSON WOOD: All right. Thank you.

17 MR. SOPER: My name is James Soper again.

18 I have come up here previously talking about  
19 problems, I would like to talk about a couple of solutions.  
20 We've heard a couple of them already, I won't go on about  
21 that, but the Open Voting Consortium solution that I looked  
22 at looks very good and it looks very well thought through.  
23 The gold star audit that I'm learning about has a number of  
24 elements that look like they're worth working with.

25 I think I would like to see this Panel hold a

1 hearing on procedures. We had the lady here talk about  
2 Sequoia doing vote counting. The procedures are not very  
3 tight and this is a big problem, and I'd like to see a  
4 hearing to discuss that and have that worked on, and not  
5 just the electronic systems, but the procedures.

6 Secondly, the weakest point in this whole system,  
7 and if you look at it of how can somebody cheat, the weakest  
8 point is the tabulating machines. And that's where you can  
9 change votes wholesale.

10 And I would like to propose something. I  
11 understand that every precinct publishes or produces two  
12 papers of vote counts, one gets posted outside the precinct,  
13 the second one goes down to the registrars. I would like to  
14 see that the state of California set up a website where each  
15 registrars office on election night can go in and they can  
16 certify being the registrar, and they enter into the state  
17 of California's website the raw data from those documents,  
18 and then that data is converted to some kind of easily  
19 readable by a technologist format that just has them and it  
20 directs them out so that we can load it down and double  
21 check the count ourselves. In other words, the problems  
22 with tabulation, if we can get the data, we can check the  
23 count and that will increase the trust of the system. I  
24 don't think it's going to be that expensive. I know there  
25 is a registrar here who is going to say, well, it's going to

1 take a little bit more time. I think it's worth it  
2 because --

3 CHAIRPERSON WOOD: Thank you, Mr. Soper.

4 MR. SOPER: Thank you.

5 (Applause.)

6 CHAIRPERSON WOOD: Well, that concludes Item  
7 Number 4 and that concludes the agenda.

8 Let me make some final comments. We've had a  
9 great deal of information presented to the Secretary of  
10 State's office, we've had a great deal of information that  
11 we're going to have to review. And I anticipate given the  
12 enthusiasm that we're going to have a great deal of  
13 information coming to us in the next two weeks until June  
14 30th. At some point shortly after June 30th, the Secretary  
15 of State will put a recommendation on its website as to the  
16 Items Number 1 and 2 that were presented to the Secretary of  
17 State and that will incorporate all of the comments and the  
18 information that has been received.

19 In addition, as I indicated, the public comment  
20 that is received during this two week period will be posted  
21 on our website as well.

22 The Technical Advisory Board that Secretary  
23 McPherson appointed, the charter for that body should be  
24 completed within the next 30 days. That charter will also  
25 be posted. And shortly, perhaps in the next day or so, we

1 will post the biographies of the various scientists who are  
2 at the moment the members of the Technical Advisory Board.  
3 And, as I indicated, based on the recommendation of the  
4 Chair David Jefferson, there may be additional scientific  
5 experts added to that Panel.

6           And then finally, there was a number of very well  
7 thought out comments about the processes and the procedures  
8 that are used, and one of the things that Secretary  
9 McPherson wants to do is codify in some sort of concrete  
10 consistent form a lot of the things now that exist simply as  
11 documents on the Secretary of State website.

12           So as I said yesterday, one of the projects that  
13 we're going to be engaged in, and it will be a piecemeal  
14 project, and the first part of the regulatory enforcement  
15 action is going to be to take the process that involves how  
16 recommendations, how things are put together, put that in  
17 regulation. That goes to the entire Administrative  
18 Procedure Act process which means public review, public  
19 comment before adoption, and then we'll move on to all of  
20 the other processes that are now simply posted and put that  
21 into regulation.

22           So I wanted to give you that kind of a sense of  
23 what the schedule will be like.

24           Thank you all very much and we'll see you later.  
25 (Thereupon the VSPP meeting was concluded at 12:30 p.m.)

## 1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand Reporter, do  
3 hereby certify that I am a disinterested person herein; that  
4 I reported the foregoing Voting Systems and Procedures Panel  
5 proceedings in shorthand writing; that I thereafter caused  
6 my shorthand writing to be transcribed into typewriting.

7 I further certify that I am not of counsel or  
8 attorney for any of the parties to said Voting Systems and  
9 Procedures Panel proceedings, or in any way interested in  
10 the outcome of said Voting Systems and Procedures Panel  
11 proceedings.

12 IN WITNESS WHEREOF, I have hereunto set my hand  
13 this 19th day of July 2005.

14  
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16  
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19 Michael J. Mac Iver  
20 Shorthand Reporter  
21  
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